IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

RPFC.No. 53 of 2003()

MC.143/2002 of FAMILY COURT, MANJERI
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REVISION PETITIONER/RESPONDENT

K.ABDURAHIMAN,
S/O.ALI,VALANCHERI,PAPPINIPPARA,
MANJERI P.O.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.GEORGE THOMAS

RESPONDENTS: PETITIONER
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1. RAHILAS,MINOR,
D/O.ABDURAHIMAN,REPRESENTED BY THE GUARDIAN
MOTHER NOORJAHAN,D/O.KURUGADAN AHAMMED,
KUYILKUNNU HOUSE,MONGAM P.O.
KONDOTTY.

2. AFIQUE,MINOR,
S/O.ABDURAHIMAN,
REPRESENTED BY GUARDIAN MOTHER NOORJAHAN,
D/O.KURUNGADAN AHAMMED,KUYILLUMKUNNU HOUSE,
MONGAM P.O.,KONDOTTY.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.4778/2003 IN R.P.(F.C).NO.53/2003

CLOSED.

SD/- K.R.UDAYABHANU, JUDGE

16/10/2007

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K.R.UDAYABHANU, J.

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R.P.(F.C).No.53 of 2003

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Dated this the 16th day of October, 2007

O R D E R

The revision petitioner is the respondent in M.C.No.143/2002, the petition filed under Section 127 Cr.P.C seeking enhancement of maintenance granted vide the earlier order in M.C.No.792/1999. The petitioners in M.C.No.143/2002 are the minor children of the respondent/revision petitioner. As per order in M.C.No.792/1999, they were granted maintenance at the rate of Rs.300/- per month to the first petitioner and Rs.275/- per month to the second petitioner. The petitioner had sought for enhancement as they were then studying in Std.III and U.K.G respectively and that the cost of living had increased. It is alleged that the respondent/revision petitioner is running a travel agency by name Hijra Travels at Manjeri. The respondent is a graduate in economics. He is the Chief Organiser of the 'Huj' group and he gets an income of Rs.20,000/- per month from business and also gets income from his properties. The petitioners have claimed maintenance at the rate of Rs.1,500/- per month. The court below ordered enhanced maintenance at the rate of Rs.1,000/- for each of the petitioners in the M.C.

2. The respondent/revision petitioner had filed counter statement contending that the travel agency is not a recognised one and that he had started it by availing loan and that on account of stiff competition his business has become dull. Further, he has to maintain his second wife and two children in his second wife and aged parents.

3. The evidence adduced in the matter consisted of the evidence of PW.1, who is the mother who represented the petitioners 1 and 2, and RW.1 the power of attorney holder of the respondent and Ext.D1 Commission Report in the original suit filed by the respondent seeking to restrain the building owner of the building in which the travel agency is situated, from demolishing the structure. PW.1 has testified that the travel agency is functioning for more than 12 years. The court below found that RW.1 is just aged 20 years and is not competent to speak about the business of the respondent. It is his version that the travel agency is closed and the respondent has gone to Bombay. The court below found from Ext.D1 copy of the Commissioner's report in O.S.No.290/2002, the suit instituted by the respondent, that it appeared that the travel agency is a well equipped one. The Commissioner has reported that there is a fax machine and two telephones in the travel agency premises. It is also noted in the Commission Report that the

Commissioner inspected the premises just two months before the date of the order in the present matter and hence, the version of RW.1 that the travel agency is closed down cannot be believed as such. The absence of the respondent from the proceedings at the time of evidence has also been adversely commented upon as, 'Bombay is not a far off place'. It was in the above circumstances, the court found that the respondent/revision petitioner has sufficient income and ordered maintenance at the rate of Rs.1,000/- per month to each of the petitioners/minor children. In view of the evidence adduced in the matter I find no interference is called for. The revision petition is dismissed.

K.R.UDAYABHANU,
Judge

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